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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,607	09/25/2003	Kazuhiro Kudo	1609-0127P	5668

2292 7590 06/13/2005

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EXAMINER
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BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/669,607	Applicant(s) KUDO ET AL.	
	Examiner Christopher Bottorff	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____  |

S. - 0. - 0.

## DETAILED ACTION

### *Information Disclosure Statement*

The information disclosure statement (IDS) submitted on September 25, 2003 was considered by the examiner.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen US 5,108,129.

Olsen discloses a body cover comprising a cover main body 4 and fenders 14, which are attached to the cover main body 4. See Figure 1 and column 3, lines 30-33. The cover main body 4 is disposed at a central part in a lateral direction of the vehicle. See Figure 1.

The cover main body 4 has side wall surfaces to which the fender is attached, and the side wall surfaces are opposing against side surfaces of the wheels, respectively. See Figure 1. Each of the fenders 14 has an abutting surface 24 capable of being abutted against the side wall surface, and the fenders are attached to the cover main body in a state in which the abutting surfaces 24abut against the side wall

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surfaces, respectively. See Figures 1 and 5. Also, each of the abutting surfaces includes a first surface, formed by the forward curved portion of surface 24, and a second surface, formed by the rear portion of surface 24, that intersect each other at the forward region where surface 24 begins to curve. See Figure 5.

Furthermore, the preamble expression "for a vehicle with a saddle seat" merely defines the intended use of the body cover. However, it is well settled that claims containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all of the structural limitations of the claims. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Since Olsen discloses all of the structural limitations of the claims, the intended use recited in claim 1 does not differentiate the claimed apparatus from the apparatus of Olsen.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Tsutsumikoshi et al. US 4,535,869.

Tsutsumikoshi et al. disclose a body cover comprising a cover main body 8 and fenders 801, which are attached to the cover main body via the bond between the two components formed during molding. See Figure 2 and column 5, lines 38-40. The cover main body 8 is disposed at a central part in a lateral direction of the vehicle. See Figure 1.

The cover main body has side wall surfaces opposing against side surfaces of the wheels, respectively. The side wall surfaces are formed by the substantially vertical

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portions of cover main body 8 that extend upward from the central portion to the fenders 801. See Figure 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsutsumikoshi et al. US 4,535,869 in view of Morishita et al. US 2002/0038737 A1.

Since the cover main body and fenders are formed integrally, Tsutsumikoshi et al. do not disclose that each of the fenders has first and second intersecting abutting surfaces abutting against the side wall surfaces to attach the fenders to the cover main body.

However, Morishita et al. teach the desirability of providing a fender attachment arrangement with abutting surfaces that abut against side wall surfaces. See Figures 2 and 22 and paragraph 0093. Since the abutting surfaces extend through substantially horizontal and substantially vertical portions (see Figure 1), the abutting surfaces each include a first surface (substantially horizontal) and a second surface (substantially vertical) that intersect each other. From the teachings of Morishita et al., attaching the fenders of Tsutsumikoshi et al. to the cover main body by abutting first and second intersecting abutting surfaces to the side wall surfaces, rather than attaching the fenders

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and cover main body through integral molding, would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the fenders to be removed and replaced with new fenders in the event that the fenders become damaged.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Best, Gibes, Tamura, Badsey, Waner, Czirmer, Scott, and Bombardier disclose fender arrangements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

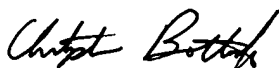
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

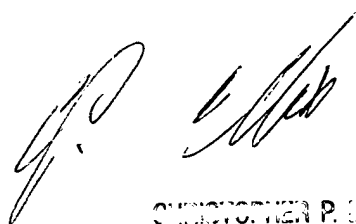
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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher Bottorff



CHRISTOPHER P. ELLIS  
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